



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 25, 1993

Mr. Jeff Hankins
Legal Assistant, Program Division
Legal Services 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR93-037

Dear Mr. Hankins:

The Texas Department of Insurance (the department) received a request for certain information under the Texas Open Records Act, V.T.C.S. article 6252-17a. Some of the requested information contains federal employer identification numbers, which you say were assigned to the employers by the Internal Revenue Service for tax purposes.¹ You assert that the department must withhold these identification numbers under section 3(a)(1) of the Open Records Act, in conjunction with section 6103(a) of title 26 of the United States Code. We assigned your request for a decision on this matter an identification number, ID# 17885.

Section 3(a)(1) of the Open Records Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 6103(a) of title 26 of the United States Code states that:

Returns and return information shall be confidential, and except
as authorized by this title--

....

(2) no officer or employee of any [s]tate, . . .

shall disclose any return or return information obtained by him in any
manner in connection with his service as such an officer or an
employee or otherwise or under the provisions of this section. . . .

Under section 6103, "return information" includes, among other things, a taxpayer's identity. 26 U.S.C. § 6103(b)(2)(A). A taxpayer's identity means "the name of a person with respect to whom a return is filed, his mailing address, his *taxpayer identifying*

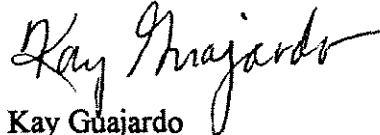
¹The federal tax identification numbers appear on two forms which insurance companies file with the department pursuant to V.T.C.S. article 8308, "Insurance Carrier Notice of Coverage/Cancellation/Non-renewal of Coverage" and "Employer Notice of Coverage."

number (as described in section 6109), or a combination thereof." 26 U.S.C. § 6103(b)(6) (emphasis added).

We think a federal tax identification number clearly constitutes return information which is confidential under section 6103(a) of title 26 of the United States Code. Under section 6103(a)(2), the fact that the number appears on forms of the Department of Insurance does not affect its confidentiality. You therefore must withhold the federal tax identification numbers which appear on the insurance forms under section 3(a)(1) of the Open Records Act, as information made confidential by statutory law. Cf. Open Records Decision Nos. 600 (1992) at 8-9 (W-4 form); 226 (1979) (W-2 form).

Because the plain language of the statute and prior decisions of this office resolve this request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-037.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lmm

Ref.: ID# 17885
ID# 17977

cc: Mr. James N. Wood, MBA, FLMI
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